IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 9622 of 2007(U)

OS.391/2000 of PRL.MUNSIFF'S COURT, KASARAGOD

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PETITIONER:

K.KUMARAN NAIR, S/O.MUTHU NAIR,
AGED 53 YEARS, RESIDING AT
CHAMBARATHIMARU OF BADIYADKA
VILLAGE, KASARAGOD TALUK AND DISTRICT.

BY ADV. SRI.K.SHRIHARI RAO
SMT.N.SHOBHA

RESPONDENTS:

1. P.RAGHAVAN NAIR, S/O.KUNHAMBU NAIR,
   RESIDING AT CHELATHU BADIYADKA VILLAGE,
   KASARAGOD DISTRICT.

2. KERALA STATE ELECTRICITY BOARD,
   REPRESENTED BY ITS ASSISTANT
   SECRETARY, DISTRICT OFFICE,
   KASARAGOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 9622 of 2007 U

JUDGMENT

The petitioner is the judgment debtor in O.S. No.391/00 on the file of the Principal Munsiff's Court, Kasargod. In execution of a money decree obtained against the petitioner/judgment debtor by the first respondent/decree holder, his property was brought to sale and the same was bid in auction by the first respondent/decree holder. The sale was confirmed. Sale sannath was obtained and the property was also delivered over to the first respondent/decree holder/auction purchaser on 26.2.2007. The petitioner filed Exhibit P1 petition before the execution court for a direction not to deliver House No.140 in Ward No.VIII of Badiyadka Panchayat and the land appurtenant thereto to the first respondent/decree holder.

2. The prayer, obviously, could not have been granted by the execution court, as the property had

already been auctioned in favour of the first respondent/decree holder and sale certificate was also issued. Thereafter, on 26.2.2007 delivery was also effected in favour of the first respondent/ decree holder/auction purchaser. In the circumstances, no relief can be granted to the petitioner by this Court.

3. It is submitted by the counsel for the petitioner that the first respondent/decree holder is willing to give back the building and the land appurtenant thereto to the petitioner. The petitioner can obtain assignment deed in relation to the building and the land appurtenant thereto, if the first respondent/decree holder so pleases.

This writ petition, in the circumstances, is not maintainable and is dismissed.

21st March, 2007 (K.P.Balachandran, Judge)

tkv